

University of Utah Non-Employee Payments to Nonresident Aliens

Nonresident Alien Visitors Non-Employee Payments

Visa Types:

- B-1 Business visitor
- B-2 Tourist visitor
- WB Business visitor (through visa waiver program)
- WT Tourist visitor (through visa waiver program)
- J-1 Exchange visitor can pay consultants and independent contractors

B-1, B-2, WB and WT Visa Visitors:

WB/WT is issued to an individual from a designated country participating in the Visa Waiver Program. Not all countries participate in this program currently only 35 participate. See www.travel.state.gov/visa/temp/without/without_1990.html for more information on WB/WT visas. Canadian individuals are now required to show their passport when they enter the United States. They are considered the same as the B-1/B-2 visa holder unless they enter on a specific visa type.

Honorarium or Guest Lecturer payments on a B-1/B-2 or WB/WT visa require the completion of the Form "Certification of Academic Activity". The individual must certify that they have not accepted Honoraria (or Guest Lecture fees) and/or incidental expense reimburses from more than four institutions of higher education during the past six months or have their activity at that institution exceed nine days.

Required documents attached to a check request to pay an Honorarium:

SSN/ITIN and Tax Treaty Benefit

1. Visa copy
2. Passport copy
3. Completed Form 8233
4. W-8BEN
5. Certification of Academic Activity

SSN/ITIN and no Tax Treaty Benefit *Required 30% withholding*

1. Visa copy
2. Passport copy
3. W-8BEN
4. Certification of Academic Activity

No SSN/ITIN *Required 30% withholding*

1. Visa copy
2. Passport copy
3. W-8BEN

4. Certification of Academic Activity

Required documents attached to a check request to pay a Guest Lecturer:

SSN/ITIN and Tax Treaty Benefit

1. Visa copy
2. Passport copy
3. Completed Form 8233
4. W-8BEN
5. Certification of Academic Activity
6. Guest Lecturer Form

SSN/ITIN and ***no*** Tax Treaty Benefit *Required 30% withholding*

1. Visa copy
2. Passport copy
3. W-8BEN
4. Certification of Academic Activity
5. Guest Lecturer Form

No SSN/ITIN *Required 30% withholding*

1. Visa copy
2. Passport copy
3. W-8BEN
4. Certification of Academic Activity
5. Guest Lecturer Form

J-1 Visa:

A J-1, exchange visitor visa, is required for Consultants or Independent Contractors to perform services in the United States. To receive a J-1 visa must be sponsored by an institution or agency. **Non University of Utah sponsored J-1 visa holders must also provide a letter of permission from their sponsor that allows them to be paid by the University of Utah.**

Required documents attached to a check request for payment to a Consultant or Independent Contractor:

SSN/ITIN and Tax Treaty Benefit

1. Visa copy
2. Passport copy
3. Completed Form 8233
4. Consultant/Independent Contractor agreement
5. W-8BEN

SSN/ITIN and ***no*** Tax Treaty Benefit *Required 30% withholding*

1. Visa copy
2. Passport copy

3. Consultant/Independent Contractor agreement
4. W-8BEN

No SSN/ITIN Required 30% withholding

1. Visa copy
2. Passport copy
3. Consultant/Independent Contractor agreement
4. W-8BEN

Tax Treaties:

Many countries have negotiated tax treaties with the United States. Treaty provisions vary by country and by the type of payment. Treaties will often be re-negotiated and lose some of their benefits. To receive tax treaty benefits the individual must have a SSN or ITIN and there must be a treaty article covering that type of payment. They also must have a visa that allows the treaty benefit.

Form 8233:

This is the IRS form used to apply for the tax treaty benefit. It needs to be completed and signed by the individual who is to be paid. To qualify, the individual must have a SSN/ITIN and an applicable tax treaty. Without both of these, we are required to withhold tax at 30% and submit to the IRS.

Social Security number:

Many foreign individuals have Social Security Numbers. They will use that same SSN for the rest of their lives, the same as a U.S. individual. This number does not expire.

For this type of payment only the J-1 visa holder may apply for a Social Security Number. They must apply in person at the Social Security Office. It may take several weeks for the SSN to be issued. All of the visitor's information must be cleared through the Department of Homeland Security. The B-1/B-2 WB/WT visa types may apply for an Individual Taxpayer Identification Number. The IRS Form W-7 is completed by the individual and sent to the IRS along with the required documents included in the instructions. If an individual qualifies to receive a SSN, they cannot apply for an ITIN.

Forms 8233 and W-8BEN are available on the IRS website, www.irs.gov .

Certification of Academic Activity is available on the Tax Services website under fbs.admin.utah.edu/tax-services/ "Nonresident Alien Payments".

EXPENSE REIMBURSEMENTS

Payments made to, or on behalf of an NRA for the purpose of reimbursing travel and lodging expenses are not reportable to the IRS on the condition that accountable plan rules are met. The benefits of this IRS position are that if "Accountable Plan" rules are followed:

1. The NRA is not required to provide a taxpayer identification number
2. The NRA is not required to file Form 8233 to eliminate withholding tax if the NRA is from a treaty country
3. There is no withholding required on travel expense reimbursements even if the NRA is not from a treaty country: and
4. The University is not required to report travel expense reimbursements for NRAs to the IRS

The requirements of the Accountable Plan rules are found in Treasury Regulation 1.62-2; and they require that the payee must:

1. Establish the business purpose and connection of the expenses
2. Substantiate the expenses claimed to the payer within a reasonable time period; and
3. Return any amounts to the payer, which are over the amount of the substantiated expenses within a reasonable period of time.

Amounts which are over the amount of the substantiated expenses, or which are not accounted for within a reasonable time period, are reportable to the IRS on Forms 1042S and are subject IRC Section 1441 withholding (generally 30%).

Documents required for a travel reimbursement to a nonresident alien:

- * Copy of their visa
- * Travel receipts